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|--|--------------|----------------------|--------------------------|------------------|
| APPLICATION NO.  | FILING DATE  | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.      | CONFIRMATION NO. |
| 10/540,497   | 05/31/2006   | Michael Stroder      | 4791-4006                | 4218             |
| 7278   | 7590         | 09/02/2009           | EXAMINER                 |                  |
| DARBY & DARBY P.C.<br>P.O. BOX 770<br>Church Street Station<br>New York, NY 10008-0770 |              |                      | GRAVINI, STEPHEN MICHAEL |                  |
| ART UNIT   | PAPER NUMBER |                      |                          |                  |
| 3743   |              |                      |                          |                  |
| MAIL DATE  |              | DELIVERY MODE        |                          |                  |
| 09/02/2009   |              | PAPER                |                          |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

|                              |                                       |                                       |
|------------------------------|---------------------------------------|---------------------------------------|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/540,497  | <b>Applicant(s)</b><br>STRODER ET AL. |
|                              | <b>Examiner</b><br>Stephen M. Gravini | <b>Art Unit</b><br>3743               |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 July 2009.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-25 is/are pending in the application.  
 4a) Of the above claim(s) 16-23 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-15, 24 and 25 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 31 May 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement (PTO/SB/08)  
 Paper No./Mail Date 20090713
- 4) Interview Summary (PTO-413)  
 Paper No./Mail Date. \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

#### **DETAILED ACTION**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

##### ***Claim Rejections - 35 USC § 103***

Claims 1, 6, 10-13 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim (US 5,374,413) in view of van Slooten (US 4,992,245). The claims are reasonably and broadly construed, in light of the accompanying specification, to be disclosed by Kim as comprising:

feeding microwave radiation from a microwave source into the fluidized-bed reactor (column 6 line 54 through column 7 line 12 and column 7 lines 38-57), introducing from below a first gas or gas mixture is introduced from through at least one gas supply tube into a mixing chamber of the fluidized-bed reactor (figure 1 and column 7 line 58 through column 8 line 45), the at least one gas supply tube **20** being at least partly surrounded by a fluidized bed which is fluidized by supplying fluidizing gas (column 8 line 46 through column 9 line 2), and supplying the microwave radiation to the mixing chamber through the at least one gas supply tube **17** (column 9 line 58 through column 10 line 51). Kim also discloses the claimed adjusting the solids in the reactor have a bed height such that the annular fluidized bed extends beyond the upper orifice end of the gas supply tube and that solids are constantly introduced into the first gas or gas mixture and entrained by the gas stream to the mixing chamber located above the orifice region of the gas supply tube (column 10 line 52 through column 11 line 6) wherein solids discharged from the reactor and separated in a downstream separator

are at least partly recirculated to the annular fluidized bed of the reactor (figure 2 and column 13 lines 33-58). Kim discloses the claimed invention, except for the claimed stationary annular fluidized bed. Van Slooten, another fluidized bed microwave method, discloses that feature at column 8 line 50 through column 10 line 12. It would have been obvious to one skilled in the art to combine the teachings of Kim, with the stationary annular feature of van Slooten, for the purpose of optimizing the microwave treatment of granular solids for an efficient use of energy. Furthermore, Kim in view of van Slooten discloses the claimed invention except for the specific microwave frequencies, adjustable wave guide cross section, or fluidized bed temperatures. It would have been an obvious matter of design choice to recite those features, since the teachings of Kim in view of von Slooten would perform the invention as claimed, regardless of the frequency, adjustable cross section, or temperature.

Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim in view of van Slooten in view of Stroder (WO 2004/056452). Kim in view of van Slooten discloses the claimed invention, as rejected above, except for the claimed feature of adjusting gas velocities of the first gas or gas mixture and of the fluidizing gas for the annular fluidized bed wherein the gas velocities have a Particle-Froude-Number in the gas supply tube between 1 and 100, in the annular fluidized bed between 0.02 and 2, and in the mixing chamber between 0.3 and 30, wherein the Particle-Froude-Number in the gas supply tube is between 1.15 and 20, wherein the Particle-Froude-Number in the annular fluidized bed is between 0.115 and 1.15, wherein the Particle-Froude-Number in the mixing chamber is between 0.37 and 3.7 stationary annular

fluidized bed. Stroder, another fluidized bed microwave method, discloses that feature of the face of that reference. It would have been obvious to one skilled in the art to combine the teachings of Kim in view of van Slooten, with the specific Particle-Froude-Numbers of Stroder, for the purpose of optimizing the adjustable gas velocity flow for microwave treatment of granular solids for an efficient use of energy.

Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim in view of van Slooten in view of Hardwick et al. (US 4,490,287). Kim in view of van Slooten discloses the claimed invention, as rejected above, except for the claimed feature of wherein the microwave radiation is introduced through a gas supply tube constituting a wave guide and/or through a wave guide arranged in the gas supply tube, wherein the microwave radiation is introduced through a plurality of wave guides, each wave guide being provided with a separate microwave source, wherein purge gas is passed through the wave guide. Hardwick, another fluidized bed method, discloses that feature at column 7 line 30 through column 8 line 38. It would have been obvious to one skilled in the art to combine the teachings of Kim in view of van Slooten, with the wave guide arrangement of Hardwick, for the purpose of optimizing microwave energy in granular solids for an efficient fluidized bed treatment.

***Double Patenting***

Claims 1-15 and 24-25 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-18 of copending Application No. 10/540,433. Applicants' copending application claims the same invention as the present application, except for the claimed inclination angle. It

would have been an obvious matter of design choice to recite an angle, since the present application would perform the copending claimed invention regardless of the angle

This is a provisional obviousness-type double patenting rejection.

***Response to Arguments***

Applicants' arguments filed July 10, 2009 have been fully considered but they are not persuasive.

***prior art obviousness***

Applicants' arguments the claimed features of "supply the microwave radiation to the mixing chamber through the at least one gas supply tube" and "a stationary annular fluidized bed" are not persuasive in overcoming the prior art rejection.

The microwave radiation to the chamber through a tube feature is disclosed at column 9 line 58 through column 10 line 51 and shown in figures 1, 3, and 4, as rejected above. Kim discloses reaction gas 9 into a reactor (fluidized) bed through a gas distribution means 14. It can be seen from the figures and disclosed at column 7 beginning at line 18 that gas inlet 14 meets the claimed gas supply tube. Also in that column beginning at line 38, microwave radiation is supplied to a heating zone 10 which includes the disclosed gas supply tube. The stationary annular bed feature is expressly disclosed beginning at column 9 line 52.

In response to applicant's argument that tertiary references van Slooten, Stroder, and Hardwick do not teach every element of the claimed invention, the fact that applicant has recognized another advantage which would flow naturally from following

the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

***Double patenting***

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Other prior art references cited teach one or more features of the claimed invention but are not relied upon in rejecting the claims.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Gravini whose telephone number is 571 272 4875. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth B. Rinehart can be reached on 571 272 4881. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

January 22, 2009

Application/Control Number: 10/540,497

Page 8

Art Unit: 3743

/Stephen M. Gravini/  
Primary Examiner, Art Unit 3743